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International covenant
on civil and
political rights

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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

YUGOSLAVIA

1. The Committee considered the third periodic report of Yugoslavia (CCPR/C/52/Add.9) at its 1144th, 1145th, 1146th and 1147th meetings, on 8 and 9 April 1992, and adopted* the following comments.

A. Introduction and positive developments

2. The Committee thanks the State party through its representative for the report it submitted, albeit late, in response to the decision adopted by the Committee on 4 November 1991. The Committee appreciates the fact that despite the serious events that have occurred in the country, the federal Government has been able to cooperate with the Committee and to present and discuss its report. The Committee takes note of the information contained in the report on the present constitutional and legal situation. It nevertheless regrets the fact that the report does not cover the whole period since 30 May 1983, the date of the submission of the second periodic report, and that it does not deal fully enough with the problems encountered by the State party in applying the provisions of the Covenant in practice. However, the oral dialogue established in the Committee meant that it was to some extent possible to obtain additional information on the obstacles to effective application of the Covenant and to highlight certain efforts being made to improve the legal and regulatory framework within which the Covenant was being applied. The Committee noted that a commission had been set up to inquire into allegations of genocide and violation of human rights during the armed conflicts.

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* At the 1148th meeting, held on 10 April 1992.

B. Factors and difficulties hindering implementation of the Covenant

3. The Committee noted that difficulties had arisen in the province of Kosovo, which had led to the proclamation of several successive states of emergency. More recently, the uncontrolled break-up of the State party's institutions has degenerated into violent inter-ethnic conflicts, leading to widespread violations of most of the human rights safeguarded by the Covenant. As a result of this state of affairs, a peace-keeping operation has been set up under the cease-fire negotiated under the auspices of the United Nations.

C. Issues of particular concern

4. The Committee notes that as things stand, the present crisis prevents it from supervising the application of the Covenant throughout the territory of the State party; because of the federal State's loss of control in a growing number of republics, little information has been communicated to the Committee on the application of the Covenant in those areas. The Committee stresses the importance of continuing to implement the Covenant in those republics. With reference to article 1 of the Covenant, the Committee regrets the fact that there was no procedure under domestic law for implementation of the right to secede recognized in the federal Constitution, which would have enabled the crisis to be settled peacefully. The Committee also regrets the fact that under the state of emergency proclaimed in the province of Kosovo, excessive steps have been taken to limit the rights and freedoms guaranteed by the Covenant.

5. The Committee expresses its gravest concern with regard to the atrocities committed during the inter-ethnic conflicts. It is disturbed by the many violations of human rights protected by the Covenant, especially those referred to in article 4, paragraph 2, of the Covenant, which are to be safeguarded whatever the circumstances (right to life and prohibition of torture in particular). The Committee greatly regrets the many cases of summary or arbitrary execution, forced or involuntary disappearance, torture, rape and pillage committed by members of the federal army. Paramilitary groups and militias have also been guilty of similar abuses. The Committee regrets the extremely low number of inquiries into these violations, the failure to take measures to punish the guilty and prevent any recurrence of such acts, and the consequent impunity of those responsible.

6. The Committee also expresses its concern over conditions in detention centres, the situation of the civilian population, particularly women, children and the elderly, in areas of conflict, and the situation of displaced persons. The Committee also regrets the extent of the restrictions and limitations placed on the exercise of the freedom of movement, the right to protection of privacy, freedom of religion, expression, assembly and association and the right to take part in the conduct of public affairs.

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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

BELARUS

1. The Committee considered the third periodic report of Belarus (CCPR/C/52/Add.8) at its 1151st, 1152nd and 1153rd meetings, held on 14 and 15 July 1992, and adopted* the following comments:

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and for engaging through a high-ranking delegation in a constructive and frank dialogue with the Committee. The wealth of additional information provided in the introductory statement and in the replies given by the delegation of Belarus to the questions raised by the Committee and by individual members has allowed the Committee to have a clearer picture of the overall situation in the country at a turning point in its history as it makes the transition toward multi-party democracy. The report, and the additional information that was subsequently provided, have enabled the Committee to obtain a comprehensive view of the State party's compliance with the obligations undertaken under the International Covenant on Civil and Political Rights and human rights standards set forth therein.

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* At the 1172nd meeting, held on 29 July 1992.

B. Positive aspects

3. The Committee notes with satisfaction that there has been clear progress in securing civil and political rights in Belarus since the consideration of the second periodic report, and especially since the submission of the third periodic report in July 1990. It is particularly noteworthy that the reforms in Belarus are being handled in a manner that allows a propitious social and political environment for the further protection and promotion of human rights.

4. The Committee also notes with satisfaction that recently enacted laws, notably the Law on Citizenship, are of a liberal character, demonstrating the Government's intention to restructure society in accordance with basic democratic principles. Existing laws, for example those relating to national minorities, are also generally being applied in a manner compatible with the Covenant. Additionally, it welcomes the readiness of the Government of Belarus to make use of the experiences of established democracies with respect to the promotion and protection of human rights.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee notes that the heritage of the negative aspects of the past could not be rectified overnight and that much remains to be done to make irreversible the process of introducing multi-party democracy and strengthening the rule of law. The Committee also notes that Belarus continues to face various problems during the present period of transition that make the task of implementing civil and political rights particularly difficult. In this connection, it also notes that the Government's efforts in restructuring the existing legal system have at times been hampered by certain lacunae in national legislation as well as by continuing resort to legislation of the former regime.

D. Principal subjects of concern

6. The Committee expresses concern about the fact that certain drafts, pending before the legislature, are not fully in conformity with the provisions of the Covenant, particularly in respect of freedom of movement. Problems in this regard relate in particular to grounds on which passports may be issued, and to clauses dealing with exit visas, particularly in respect of holders of State secrets - which are incompatible with article 12, paragraph 3, of the Covenant. The Committee is also concerned as to the planned retention of the internal residence permit ("propiska") system. The retention of the death penalty for many offences, even though limited in application, is also of concern to the Committee. The retention of the classification of persons belonging to any religion, in particular the Jewish faith, as a distinct nationality is also without justification. In many areas not covered by new legislation, much depends on the good will of the authorities, with the danger still present that the latter would be unduly influenced by certain attitudes inherited from the past.

E. Suggestions and recommendations

7. The Committee considers it to be particularly important that constitutional and legislative reforms should be expedited and that they should be in full conformity with the existing international standards enshrined in the International Covenant on Civil and Political Rights. In drafting new legislation affecting human rights special attention should be paid to the establishment of effective judicial guarantees for the safeguard of civil and political rights. Attention should be paid in all legislation to ensure that any limitations on human rights are in strict conformity with the limitations to those rights permitted in the Covenant. Existing provisions limiting or restricting freedom of movement, including the requirement for exit visas and the clause relating to holders of State secrets, should be eliminated from pending legislation to bring it fully into conformity with article 12, paragraph 3, of the Covenant.

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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

REPUBLIC OF KOREA

1. The Committee considered the initial report of the Republic of Korea (CCPR/C/68/Add.1) at its 1150th, 1151st and 1154th meetings, held on 13, 14 and 15 July 1992, and adopted* the following comments:

A. Introduction

2. The Committee expresses its appreciation for the State party's well-documented report which had been submitted within the specified time-limit. The report contained detailed information on the laws and regulations relating to the implementation of the Covenant. However, the Committee notes that the report does not include sufficient information about the implementation of the Covenant in practice and about factors and difficulties which might impede the application of the Covenant. At the same time the Committee appreciates the clear and comprehensive oral replies and detailed clarifications given by the delegation.

* At the forty-fifth session (1173rd meeting), held on 29 July 1992.

B. Positive aspects

3. The Committee notes with satisfaction that in recent years the Republic of Korea has become a party to a number of international human rights instruments, including the Covenant and its Optional Protocol, and that it has made the declaration provided for in article 41 of the Covenant. It has also joined the International Labour Organisation. The Committee also notes with satisfaction that currently consideration is being given to the possibility of withdrawing the Republic of Korea's reservations to the Covenant. Additionally, progress has been made in regard to the provision of legal aid and towards narrowing the scope of operation of the National Security Law. Internal political dissent is now more accepted. The Constitutional Court, an independent organ, is playing a vigorous and important role.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes that the relations between the two Koreas still appear to be an important factor affecting the human rights situation in the Republic of Korea. The recent conclusion of the Agreement on Reconciliation, Non-Aggression and Exchanges and Co-operation appears to constitute a positive step. According to the authorities, the Republic of Korea is, however, still coping with a very real threat of destabilization and military provocation and, therefore, the Government continues to hold the view that it is essential to retain the National Security Law in order to protect the security and integrity of its liberal democratic system.

D. Principal subjects of concern

5. The Committee expresses its concern over the fact that the Constitution does not incorporate all the rights enshrined in the Covenant. Also, the non-discrimination provisions of article 11 of the Constitution would seem to be rather incomplete as compared with articles 2 and 26 of the Covenant. These concerns are not allayed by the argument that, pursuant to article 37 of the Constitution, various rights and freedoms not enumerated therein are not to be neglected.

6. The Committee's main concern relates to the continued operation of the National Security Law. Although the particular situation in which the Republic of Korea finds itself has implications on public order in the country, its influence ought not to be overestimated. The Committee believes that ordinary laws and specifically applicable criminal laws should be sufficient to deal with offences against national security. Furthermore, some issues addressed by the National Security Law are defined in somewhat vague terms, allowing for broad interpretation that may result in sanctioning acts that may not be truly dangerous for State security and responses unauthorized by the Covenant.

7. The Committee wishes to express its concern regarding the use of excessive force by the police; the extent of the investigatory powers of the National Security Planning Agency; and the implementation of article 12, particularly in so far as visits to the Democratic People's Republic of Korea are concerned. The Committee also considers that the conditions under which prisoners are being

re-educated do not constitute rehabilitation in the normal sense of the term and that the amount of coercion utilized in that process could amount to an infringement of the provisions of the Covenant relating to freedom of conscience. The broad definition of State secrets in connection with the definition of espionage is also potentially open to abuse.

8. The Committee also expresses concern about the still high number of offences liable to the death penalty. In particular, the inclusion of robbery among the offences carrying the death penalty clearly contravenes article 6 of the Covenant. The very long period, allowed for interrogation before charges are brought, is incompatible with article 9, paragraph 3, of the Covenant. Other areas of concern relate to the continued imprisonment of persons on grounds of their political opinion; the persistence of discrimination against women in certain respects; problems relating to the principle of the lawfulness of the penalties covered by article 15 of the Covenant; and the requirement for advance authorization of assemblies and demonstrations.

E. Suggestions and recommendations

9. Taking into account the positive developments regarding respect of human rights that have taken place in the State party over the last years, the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant and, in the meanwhile, not to derogate from certain basic rights. Furthermore, measures should be taken to reduce the cases in which the death penalty is applied; to harmonize to a greater extent the Penal Code with the provisions of article 15 of the Covenant; and to reduce further the restrictions on the exercise of the right to peaceful assembly (art. 21). Finally, the Committee suggests that the Government actively consider withdrawing its sweeping reservation in respect of article 14 and take additional steps with a view to enhancing public awareness of the Covenant and the Optional Protocol in the State party.

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